

1955

November 10

NEW HAMPSHIRE LAW LIBRARY

Mr. James J. Barry, Commissioner
Department of Public Welfare
State House Annex
Concord, New Hampshire

SEP 22 1998

CONCORD, N.H.

Dear Mr. Barry:

In reply to your letter of November 8, 1955, wherein you raise three questions with reference to the fair trade law, I reply to your questions in the same order as asked.

The answer to your first question is no. RSA 357:1 provides for the legality of contracts, fixing a minimum re-sale price over a commodity "which bears, or the label or content of which bears, the trade mark, brand, or name of the producer or owner of such commodity".

The answer to your second question is also no. Violations of the fair trade law occur when the seller of a fair traded item sells such item at below the minimum fair trade price. The violation is his and the fee schedule, by which you indicate the prices you are willing to pay, is in no way a violation.

In my opinion the answer to your third question would be yes. It is recognized that the recipients are the actual purchasers of the goods and services. However they may only make purchases which are authorized by your Department and when so properly authorized payment is guaranteed by the Department. In the strictest sense the Department is a stranger to the transaction but the practicalities are such that the Department is a part of the buying and selling transaction.

Very truly yours,

Richard C. Duncan
Assistant Attorney General

RCD/T